EXHIBIT Q

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
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COYNESS L. ENNIX, JR., M.D., as an individual and in his representative capacity under Business & Professions Code Section 17200 et seq.,

Plaintiff,

vs. No. C 07-2486

RUSSELL D. STANTEN, M.D., LEIGH I.G. IVERSON, M.D., STEVEN A. STANTEN, M.D., WILLIAM M. ISENBERG, M.D., Ph.D., ALTA BATES) SUMMIT MEDICAL CENTER and Does 1 through 100,

Defendants.

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LAMONT PAXTON, M.D.

December 13, 2007

REPORTER: BRANDON D. COMBS, RPR, CSR 12978

A. Yes.
Q. Which ones?
A. Summit Medical Center, San Leandro Hospital and Eden Medical Center.
Q. And just as a general proposition, of those three, Summit, San Leandro and Eden, which one would you say you have more peer review experience at?
MR. VANDALL: Objection. Vague.
MR. SWEET: Q. Do you understand that question?
A. Yes.
Q. So what's the answer?
A. I had considerable experience at Summit Medical Center as well as San Leandro Hospital.
Q. And to some lesser degree at Eden?
A. Yes.
Q. Okay. Can you briefly describe your vascular surgery group and how it's comprised and what your role is in that group.
MR. VANDALL: Can we ask one question at a time.
MR. SWEET: Q. Go ahead. Do you understand the question?
A. I do. There are four partners in practice. Shall I name them?

Q. Yeah. Go ahead.

A. Dr. Robert Gingery, G-i-n-g-e-r-y, is the senior partner. Dr. Arnold Levine, L-e-v-i-n-e, is the next partner. Myself, and then Dr. Michael Ingegno, I-n-g-e-g-n-o, is the fourth partner. And we're a partnership practice that -- and we practice peripheral vascular surgical procedures.

Q. What does that mean?

A. Peripheral vascular as opposed to central vascular means that we operate on the periphery of the body as opposed to the central portions, such as the brain, neurosurgeons, and the heart, cardiosurgeons.

Q. And so I'm clear, those things, the brain, the heart, are things you do not operate on?

A. That's correct.

Q. So is your practice comprised mostly of, I guess I would call it, either less radical vascular surgeries or more cosmetic vascular surgeries, as opposed to the more serious internal types of vascular surgeries?

A. No.

Q. What would you describe as inaccurate about my question?

A. The surgeries that we do are at times quite complex, much as neurosurgery and cardiac surgery, and

Q. Any other professional experience that you've had with Dr. Isenberg other than the time that you two served on the MEC together?

A. No.

Q. Do you think he had input from other people in who he should ask to be on the ad hoc committee?

MR. VANDALL: Calls for speculation. You can answer if you know.

THE WITNESS: I do not.

MR. SWEET: Q. Do you have any concerns about the objectivity of the surgery peer review committee at Summit?

MR. VANDALL: Objection. It's vague.

THE WITNESS: No.

MR. SWEET: Q. Do you have any concerns about the objectivity of the cardiothoracic surgery peer review committee at Summit?

MR. VANDALL: Same objection.

THE WITNESS: I did not serve on that committee. I don't have much of a point of view. I have no reason to question objectivity.

MR. SWEET: Q. Are you able to tell me how many vascular surgeons practice at Summit?

A. Yes.

Q. How many?

A. No.
Q. Have you ever?
A. I don't believe so.
Q. Are you a golfer?
A. I am.
Q. Okay. Steven Stanten, Dr. Steven Stanten, can you describe your social relationship with him.
A. Similar, we're quite good friends. We were neighbors at one time. Our ten-year-old daughters are in school together. Our wives are good friends. And unfortunately, we don't have much time to socialize together.
Q. I guess stating the obvious, your children, Dr. Russell Stanten's children and Dr. Steven Stanten's children all go to school together?
A. Yes.
Q. How often -- I know you said you don't have a lot of time, I certainly understand that, to socialize with Dr. Steve Stanten, but how often do you socialize with him?
A. I may see him outside the hospital, three or four or five times a year.
Q. Do you play golf with him?
A. No.
Q. Have you ever?

A. Yes.
Q. How many times?
A. Twice.
Q. As you sit here today, do you have a specific recollection of two times?
A. I believe the last time was at Spanish Bay ten years ago.
Q. Let me guess, you lost 15 balls. No. You're better than that. Okay.
A. He's the good golfer.
Q. What about Leigh Iverson? Do you have a social relationship with Dr. Iverson?
A. No.
Q. Dr. Isenberg, do you have a social relationship with Dr. Isenberg?
A. No.
Q. Dr. Moorstein?
A. No.
Q. Dr. Horscowitz?
A. No.
Q. We've been going an hour, I'd like to take a five-minute break. Does that work for everybody?
A. Of course.
MR. SWEET: Thank you.
(Recess taken.)

but I'd have to review to make certain that I was at that meeting.

Q. This is a document that's been previously marked as Plaintiff's 1014. Could you review this document, please.

MR. VANDALL: I'm sorry. I wasn't privy to the marking discussion. This is a handwritten notation that says P's 1014, which I presume was designated on the record with Ms. McClain; is that correct?

MR. SWEET: Sure.

MR. VANDALL: Okay. Thanks.

THE WITNESS: Okay.

MR. SWEET: Q. Okay. What is this document that's marked Plaintiff's 1014?

A. It appears to be the minutes of our surgical peer review committee meeting on April 12, 2004.

Q. And by looking at this document, are you able to now recall and confirm for us whether you attended this meeting?

A. I did attend this meeting. My name is marked as present.

Q. And is this the surgery peer review committee meeting where Dr. Hon Lee's opinions were discussed regarding the minimally invasive cases?

A. I believe that's correct.

Q. And can you tell from this document whether Dr. Hon Lee himself appeared at this meeting?

A. I don't see his name as being present in the names listed attending the meeting.

Q. So that means he was not present; correct?

A. I don't know the answer to that.

Q. Well, if he was present, he would be listed as present; right?

MR. VANDALL: Objection. Document speaks for itself and the witness has provided his response.

MR. SWEET: Q. Doctor?

A. I don't see his name as being listed as present, thus I would interpret that he was not present.

Q. Now, was Dr. Hon Lee's opinion regarding the four minimally invasive cases conveyed to the surgery peer review committee on April 12, 2004?

A. I don't know the answer to that question.

Q. Does that mean you don't have a recollection of how Dr. Lee, Hon Lee's opinion was conveyed?

A. Correct.

Q. What was the conclusion of the surgery peer review committee regarding Dr. Lee's opinion?

MR. VANDALL: Objection. It's vague as to time, are you referring to this specific meeting?

MR. SWEET: Q. At this meeting.

time -- is not about what you thought or what other people in the surgery peer review committee meeting thought.

My question is, to your knowledge have you ever heard of an in-field expert, Hon Lee in this case, reports to the chairman of the department of surgery that there are no quality of care concerns, yet the department of surgery brings that case to the surgery peer review committee? Have you ever heard of that happening?

MR. VANDALL: Object to the question, lacks foundation as to Dr. Hon Lee's being an expert, misstates the witness's prior testimony. It misstates Plaintiff's 1014, and you can answer if you can understand the question.

THE WITNESS: I would say that I don't have any prior experience with that.

MR. SWEET: Q. Still on 1022, do you still have that document?

A. I do.

Q. Did you see these minutes before the ad hoc committee met for the first time?

A. No.

Q. Were they summarized for you in any way?

A. No.

needed more input from experts in cardiac surgery who had no potential conflict of interest and would render a fair and impartial opinion, expert opinion in this case.

Q. What else? What else, why else did you send it out?

A. For those reasons.

Q. Are you suggesting that there was no cardiologist or cardiac surgeon available on the medical staff who would have objectively sat on the ad hoc committee?

A. No.

Q. There were people that could have filled that role from within; correct?

A. Certainly.

Q. Did you have discussions with Dr. Isenberg or Dr. Steven Stanten or anybody at Summit regarding the possibility of putting a cardiac surgeon or a cardiologist on the ad hoc committee?

A. No.

Q. Why was there no Kaiser surgeon on the ad hoc committee?

MR. VANDALL: Objection. Calls for speculation.

THE WITNESS: Again, I was not involved in naming the people who would serve on the committee, and

the deposition for you to reconsider your position after you've had some time to think about it, but I'll move on right now to my next question.

Q. Whether real ad hoc committee or not, can you think of any reviewing body -- peer reviewing body that did not include a member that had the same specialty as the person being reviewed?

MR. VANDALL: The question lacks foundation, and again, are we getting into questions about third-party peer review here while the plaintiff is in the room.

MR. SWEET: Q. You can answer the question.

THE WITNESS: It's unclear. Can you state it again, please.

MR. SWEET: Q. Sure. Can you think of any ad hoc committee that did not include a member on it who had the same specialty as the person being reviewed?

MR. VANDALL: The question lacks foundation.

THE WITNESS: This is the only ad hoc committee I've ever been involved in.

MR. SWEET: Q. So the answer technically is no; correct?

A. Correct.

Q. Can you think of any peer review committee that did not include a member that had the same

specialty as the person being reviewed?

MR. VANDALL: Same objections.

THE WITNESS: Not that I'm aware of.

MR. SWEET: Q. Were you concerned that Dr. Dat Ly was on the ad hoc committee since he had worked in the operating room with Dr. Ennix?

A. No.

Q. Did you know that fact?

MR. VANDALL: Vague as to time period.

THE WITNESS: I'm not certain that I knew that fact, no.

MR. SWEET: Q. Did Dr. Dat Ly ever tell you that he worked in the operating room with Dr. Ennix?

A. No.

Q. Were you concerned that you had been selected to be on the ad hoc committee given that you were a member of the surgery peer review committee who sat in the April 12, 2004 meeting?

A. No.

MR. VANDALL: It's about lunchtime. Is this a good time for a break?

MR. SWEET: Sure. It's 12:05. Let's come back at 1:00 o'clock.

MR. VANDALL: Great.

(Noon recess taken.)

well, but I believe his name is Dr. Kwan, and he was the head of the division of ear, nose and throat, otorhinolaryngology. Both of those surgeons were non-Caucasian physicians.

Q. Quan, Q-u-a-n?

A. I'm not certain of his name, the spelling, I believe it's K-w-a-n, but I may well be incorrect in that.

Q. Back to the April 12, 2004 surgery peer review committee meeting that we talked about this morning, was a vote taken of those present to decide what to do with the peer review of Dr. Ennix?

A. I don't recall the answer to that question.

Q. How does that typically work in that committee when a decision is made? Is it a vote? How does it work?

A. Typically, we would grade the -- when a case is being presented and then the reviewer of that case, the presenter, would then grade that case, and I believe in this sense it was a 1, 2 or a 3, and I believe that the committee members, my best recollection, would then vote on whether they -- what level that they thought that this was. So we would vote on situations like that.

Q. Did that happen in this particular case

regarding Dr. Ennix?

A. Whether we voted to grade the complication?

Q. Correct.

A. That's what we did in that committee, we discussed complications and the reviewer would give their opinion of the grade and we would vote whether we agree or whether we would change that to a 1 or 2 or 3 and all cases that came up, we would discuss. That would be the case, the way it would work.

Q. And the process is the reviewer presents whatever information that they have and there's a vote as to how to grade it?

A. That's correct.

Q. To beat a dead horse, I guess, in this case Dr. Hon Lee at least from these minutes it appears did not actually present his findings personally, somebody else did perhaps; correct?

MR. VANDALL: Asked and answered.

MR. SWEET: Q. It has been, but is that right?

A. I'm sorry. Is what right again?

Q. The reviewer in this case, this case is different because the reviewer didn't present his findings; correct, somebody else presented them on his behalf?

discussions were pursued, so I can't answer that question.

Q. Did you have input regarding whom the ad hoc committee would or would not interview?

A. As I recall, when we first met, we collaboratively discussed between -- I believe it was the four of us -- three committee members and president of the medical staff, Dr. Isenberg, who we believe would be most appropriate to the interview in our evaluation of these cases.

Q. And how did you in the first instance come up with that list? What was it based on?

MR. VANDALL: Objection. Lacks foundation.

THE WITNESS: It was based on the persons who had interaction with Dr. Ennix and who we thought could give best evaluation opinions of these cases.

MR. SWEET: Q. Who were those first witnesses that you thought would be important to interview?

A. I don't recall them in exact order, but we thought that the cardiac surgeons, namely Dr. Russell Stanten and Dr. Janette Khan would be of importance. We thought that Dr. Steven Stanten, the chair of the department of surgery, would be important to interview, and also an anesthesiologist who worked with Dr. Ennix, we thought would be important to interview.

issues regarding Dr. Ennix.

Q. Did Dr. Isenberg suggest these names?

A. He was involved in the process, yes.

Q. By the way, there's a lawyer present at this meeting; correct?

A. Yes.

Q. Whose idea was it to have a lawyer present at the ad hoc committee meetings?

MR. VANDALL: If you know.

THE WITNESS: I don't know the answer to that question.

MR. SWEET: I have to admonish Counsel that that is the exact prohibition in Judge Alsup's order, you cannot indicate to your witness that he should have some question about whether he knows an answer to something or not.

It's not the first time you've done it, and frankly, I've let you get away with it, but now I'm not going to. So there's your admonition, and I hope as one who's constantly citing to rules and regulations and statutes that you would be able to adhere to paragraph 24 of his order.

Q. I'm sorry.

A. My answer is the same, that I don't know, I have no knowledge why he attended. My impression was

that that was routine to have the medical staff legal counsel present during the ad hoc committee discussion.

Q. How were you elected chair of the committee?

A. I'm afraid by default. I went to answer a page, when I came back they had elected me. They asked, I went away to answer a page, and they said would you please be chair and I accepted.

Q. Who said that?

A. I don't recall. I think it was consensus of Dr. Isenberg, Dr. Dat Ly and Dr. Barry Horn.

Q. Did you want to be the chair?

A. I would say that I didn't have any prior desires to be the chair, no.

Q. Okay. There's an initial list of people to interview, and Dr. Ennix is not listed there, is he?

A. His name is not on this list.

Q. Why?

A. I don't know the answer to that question, but I would assume that this is a -- an initial list. It was expanded as we went on to include other people who would be appropriate, and I would image that it was always in our process to include Dr. Ennix in this process as being fair and balanced.

Q. But true, he's not listed on the initial list of possible interviewees; correct?

on August 30, 2004, this statistical information before you interviewed Dr. Ennix; correct?

A. I believe that's correct.

Q. And as this minute order suggests in paragraph 3, you are reviewing the Junoe report and discussing its contents before you interviewed Dr. Ennix; correct?

A. I believe that's correct.

Q. And in this minute order, and I think this is the second meeting of the ad hoc committee, you generate or the committee generates a list of people to interview, do you see that?

A. I do.

Q. In priority order, do you see that?

A. I do.

Q. Dr. Ennix doesn't appear anywhere on this list, does he?

A. His name is not on this list.

Q. And the last entry is the anesthesiologist from Alta Bates medical staff, so somebody thought it would be perhaps a good idea to interview an Alta Bates anesthesiologist; correct?

A. That's how it would appear.

Q. Did you ever?

A. I don't believe we did.

Q. Last three sentences, Dr. Lee was asked about STS risk adjusted data. Dr. Lee said that the cardiothoracic peer review group reviews data by surgeon, quote, I don't see any one physician falling out, unquote.

What did that mean?

A. It would be my interpretation that he's saying that he does not see any one surgeon whose statistics are falling out.

Q. Was he telling you that the statistics that you were relying on did not indicate that Dr. Ennix, quote/unquote, fell out?

MR. VANDALL: Calls for speculation.

THE WITNESS: Well, I'm not a cardiac surgeon, that would be speculation on my part.

MR. SWEET: Q. Back to the first page of this document, back to the paragraph in the middle there, starting Dr. Stanten then asked, four lines up from the bottom of that paragraph, starting Dr. Stanten, and I'll read it and I'm going to ask you some questions about it, Dr. Stanten stated that combining these concerns with other issues raised from the Alta Bates peer review, he felt these issues were not procedure related but physician related.

What did that mean?

A. I don't see that written here.
Q. Well, did you?
A. And I don't recall if we specifically asked that question to Dr. Russell Stanten.
Q. So we could draw from this that the chair of the cardiothoracic surgery division was telling you that at least some of the statistics you were analyzing were not significant; right?
A. I believe he was saying that some of the statistics did not fall below standard of care, yes.
Q. Did you do anything to figure out which statistics he was talking about?
A. I believe we looked at other statistics that showed that there were patient care issues, morbidity/mortality issues, compared to his peers.
Q. This was the second time that Dr. Russell Stanten was in front of the ad hoc committee; is that right?
A. He interviewed twice with our committee.
Q. And in general, just a general flavor, was Dr. Russell Stanten's testimony at this meeting, October 27, 2004, favorable to Dr. Ennix or not favorable?
A. I'd have to look through the document again to characterize it as such.

(Whereupon, Exhibit 1031 was marked for identification.)

MR. SWEET: The next exhibit is a January 4, 2005 letter from Dr. Paxton to Dr. Smithline. This is a five-page letter.

Q. I'm going to ask that you not review it again, quite yet. Okay.

My first question to you, Dr. Paxton -- I'm sorry. What number is this --

THE REPORTER: 1031.

MR. SWEET: Q. Who wrote this letter?

A. I believe it was Dr. Isenberg and I.

Q. Was it supposed to be a neutral letter? I don't think you need to read the letter to answer the question. Was it supposed to be a neutral letter, was that the intent?

A. I don't recall that I would say that it's not neutral. I don't know what you're getting at.

Q. Well, what was the purpose in paragraph 2 of telling the NMA at the bottom of that paragraph, that medical staff began to take an intensive interest in his practice. What was that meant to convey?

A. That we had concerns about his cases and morbidity and mortality.

Q. The next paragraph highlights, quote, specific

A. No.

Q. Do you know what the summary suspension was based on specifically?

A. I would have to review the records to be accurate, but I believe it was based on the falsification of a medical record.

Q. Were you told that the NMA report had any role in the summary suspension?

A. No.

Q. You were not told that?

A. Not to my recollection.

Q. With all of this happening between the October 28, 2004 meeting and your May 16, 2005 meeting, the summary suspension, the NMA report coming out, the pacemaker case, et cetera, looking back on it, do you think it would have been a more fair procedure had Dr. Ennix been talked to at that point?

A. I believe the way we handled this ad hoc committee with Dr. Ennix was performed quite fair and the manner in which we interviewed Dr. Ennix was performed in a very fair fashion as well.

Q. I'm still on the May 16, 2005 minutes, and now I'm on page 2, the first full paragraph reads the committee requested information regarding the basis for the summary suspension, Dr. Isenberg responded that he

consulted with the medical staff officers and then implemented the summary suspension based on the most recent incident in light of all the material currently available, paren, most notably the Mercer report, close paren, which indicates that continuing Dr. Ennix's privileges pending the completion of the investigation presents an imminent danger to the health or safety of an individual including current or future hospital patients. Do you see that?

A. I do.

Q. So Dr. Isenberg was telling the ad hoc committee that he relied on the Mercer report, most notably on the Mercer report to impose the summary suspension; right?

A. Well, I would interpret it that he implemented the summary suspension based on the most recent incident and in light of the available current material, the Mercer report, indicating that the doctor's privileges were being suspended due to the imminent danger to the health and safety of individuals.

Q. Dr. Paxton, if it was a falsification of a medical record, how would that imply imminent danger to the health and safety of a patient?

A. Well, I'm not certain that falsification of a record would necessarily put patients at risk, but it

A. I believe I reviewed the report, and then summarized in these paragraphs.

Q. So, for instance, it starts with ABS-10, under sub A and then it goes to ABS-007, that's how you presented it to your ad hoc committee?

A. It would appear so.

Q. At the end of that section, and I'm now at the bottom of D2004, which is page 3 of this minute, it concludes, with this passage, discussed role of cardiologist in these cases, should ad hoc committee interview the cardiologists involved in these cases. Do you see that?

A. Yes.

Q. Whose idea was it perhaps to interview cardiologists?

A. I don't recall specifically who made that comment.

Q. Did the ad hoc committee bother to interview cardiologists?

MR. VANDALL: Objection. Argumentative.

MR. SWEET: Perhaps.

Q. Did you interview cardiologists?

A. I believe the case was discussed with Dr. Woodworth, with one of the cardiologists, yes.

Q. In what capacity?

A. To discuss these cases as he was involved in one of these cases. In the NMA report, and I can add I recall that they had said that perhaps that further cardiology intervention would have been appropriate as opposed to proceeding with urgent coronary bypass, and I believe that cardiologist was involved in this case. And I believe that that was discussed with him, although I don't recall the specifics of that.

Q. Let me refer you to the second to last page of this exhibit, D2008, which is entitled, Corrected Chronology of Ad Hoc Committee Meetings and Interviewees. Do you see that page?

A. I do.

Q. Is there a cardiologist listed anywhere on this list of the interviewees of the ad hoc committee?

A. There's not.

Q. So how was Dr. Woodworth involved in your ad hoc committee investigation?

A. I don't believe he was interviewed, but I think the case was discussed with him by the, I believe, the president of the medical staff.

Q. And how did this information get to you, to your committee, if you know?

A. I don't recall specifically.

Q. But certainly not in the form of testimony in

A. To the best of my recollection, I thought we had 19 meetings of our committee, but I could be incorrect on that.

Q. Right. I think you said you interviewed 19 people.

A. No. Not interviewed.

Q. That was a misstatement.

Who wrote the investigative report and investigation issued by the ad hoc committee?

A. I believe it was a collaborative effort.

Q. Well, who typed it into the computer?

A. I believe it was typed in the computer by the medical staff.

Q. Who submitted -- who wrote the document that was submitted to the medical staff's secretary?

A. I believe it was the committee members and Dr. Isenberg.

Q. Are you indicating that different parts of the report were drafted by different committee members?

A. I wouldn't specifically say that, no.

Q. Was someone primarily responsible for drafting the report?

A. No. I think that we all had a role in drafting the report and submitting it together.

Q. At this late hour, I don't mean to argue with

A. I do.
Q. What does that mean, and on what do you base that?
A. We base that on the report that we had from our supervisors as well as the NMA report.
Q. Does, did not go well, mean that the patient care activities were outside the standard of care?
A. I don't know that I would characterize it on those terms.
Q. Were you involved, your ad hoc committee, involved in the proctoring that resulted with Dr. Ennix's privileges?
A. We reviewed the proctor reports.
Q. You mean, the ad hoc committee had an official role in proctoring, didn't it?
A. I wouldn't say we had an official role in proctoring. I believe we said that they would be proctored and that we would be involved in reviewing that proctored information.
MR. SWEET: I have another exhibit.
(Whereupon, Exhibit 1037 was marked for identification.)
MR. SWEET: Q. Dr. Paxton, this is a letter dated April 19, 2006 from the proctors; correct?
A. Yes.

Q. And it's sent to you; right?
A. Yes.
Q. And this is at a time period, April 19 was as the six-month proctoring restriction, the first set of six months was about to conclude; correct?
A. Yes.
Q. And this letter expresses to you the unanimous universally favorable reports from the proctors about Dr. Ennix's patient care activities; right?
A. I'll review it quickly.
Q. Is that accurate?
A. I'm sorry. Please restate.
Q. This letter is from all six proctors indicating that they have no problem with Dr. Ennix's patient care activities.
A. That's what it states.
Q. Did you receive this letter?
A. I believe the answer is yes.
Q. If I could have marked as next in order number 1038, please.

(Whereupon, Exhibit 1038 was marked for identification.)

MR. SWEET: Q. Dr. Paxton, this is the May 4, 2006 report of the ad hoc investigating committee to the medical executive committee on the status of the

proctoring. Do you recognize this document and accept my representation as to what it is?

A. May I take a brief look?

Q. Sure.

A. Yes. Thank you.

Q. About two-thirds of the way down in this minute, it says, the AHC reached the conclusion that there were an inadequate number of cases to warrant a conclusion to lift the proctoring process. Do you see that?

A. I do.

Q. Is that what the AHC decided?

A. I believe it was the portion of the AHC that reviewed these that was the opinion.

Q. Which included you; correct?

A. It did.

Q. The point is that this is a report sent by you to the MEC at the six-month interval and whether or not to continue or discontinue the proctoring requirement, and you're recommending to continue it; correct?

A. That's what it states.

Q. Notwithstanding that you had received a letter from all of the proctors telling you that there was no need to continue the proctoring; correct?

A. I recall that Dr. Steven Stanten and I

reviewed these cases and read through the cases, the charts, the medical records, and it was our feeling that this was an inadequate number of cases to make a sound judgment to allow Dr. Ennix to lift the proctoring.

Q. Okay. But my question was just a simple yes or no, that you and I guess Steve Stanten together decided that even though the proctors themselves said it's okay to stop the proctoring requirement, you and Steve Stanten decided to continue to recommend continuing the proctoring requirement; correct?

A. We felt that there were inadequate number of cases to warrant a conclusion to lift the proctoring process.

Q. I know your reason, but I just want to know so I have a clean record that you recommended to continue the proctoring requirement --

A. We did.

Q. -- and the reason is because you felt there were an inadequate number of cases to warrant the conclusion?

A. Correct.

Q. Why? I mean, what do you base that on?

A. We base this on our opinion that there were an inadequate number of cases to judge the -- judge this and we felt that it would be most prudent in regard to

STATE OF CALIFORNIA

I do hereby certify that the witness in the foregoing deposition was by me duly sworn to testify the truth, the whole truth, and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and place therein stated; that the testimony of the said witness was reported by me, a Certified Shorthand Reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting; that thereafter, the witness was given an opportunity to read and correct the deposition transcript, and to subscribe the same; that if unsigned by the witness, the signature has been waived in accordance with stipulation between counsel for the respective parties.

And I further certify that I am not of counsel or attorney for either or any of the parties to said deposition, nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand the 27th day of December, 2007.

Certified Shorthand Reporter

CSR No. 12978